

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	Case No. 2:10-cv-13101-BAF-RSW
)	
and)	District Judge Bernard A. Friedman
)	
SIERRA CLUB,)	Magistrate Judge R. Steven Whalen
)	
Intervenor-Plaintiff,)	
v.)	
)	
DTE ENERGY COMPANY, and)	
DETROIT EDISON COMPANY)	
)	
Defendants.)	

**MOTION FOR EXTENSION OF TIME AND FOR
PERMISSION TO FILE ENLARGED BRIEF**

On May 22, 2020, Plaintiff-Intervenor Sierra Club filed a Motion To Enter Or, In The Alternative, To Provide Notice Of An Agreement (“Separate Agreement”) between Sierra Club and Defendants DTE Energy Company and Detroit Edison Company (collectively “DTE”). ECF No. 267. The United States responded to that Motion on July 8. ECF No. 279. The current deadline for Sierra Club’s reply in support of its Motion (hereinafter “Reply”) is August 3, ECF No. 273, and the current page limit for that Reply is 12 pages. ECF No. 281.

On July 27, Richard Epstein and Jeremy Rabkin (“Proposed Amici”) filed a motion for leave to file an *amicus curiae* brief in support of the United States’

position regarding Sierra Club's Motion, accompanied by a proposed 12-1/2 page *amicus curiae* brief. Proposed Amici represent that their "brief seeks to offer legal, theoretical, and historical arguments . . . [that] go beyond the arguments presented by the parties". ECF No. 284 at ¶3. As Proposed Amici noted in their motion, Sierra Club is willing to not oppose their motion conditioned on the filing deadline for Sierra Club's Reply brief in support of its Motion being extended to ten days after the filing of the *amicus curiae* brief, and the page limit for that Reply being enlarged by seven pages. ECF No. 284 at ¶ 7.

Consistent with its position regarding the Proposed Amici's motion for leave, Sierra Club respectfully moves that the deadline for its Reply in support of its Motion, ECF No. 267, be extended from August 3 to August 6, 2020, and that the page limit for that Reply be enlarged from 12 to 19 pages. Such extension and enlargement are needed to provide Sierra Club with a reasonable opportunity to review and address the arguments raised in the *amicus curiae* brief in the event that the Court grants the Proposed Amici's motion for leave to file that brief.

Counsel for Sierra Club has conferred with counsel for the United States and DTE regarding this motion. The United States stated that it has no objection to the motion. DTE takes no position on the motion.

BRIEF IN SUPPORT OF MOTION

For its Brief in Support of its Motion for Extension of Time and For Permission to File Enlarged Brief, Sierra Club relies upon the reasons and authority set forth in the Motion.

Respectfully submitted,

/s/Shannon Fisk

Earthjustice
1617 John F. Kennedy Blvd., Suite 1130
Philadelphia, PA 19103
(O) 215-717-4522
(C) 215-327-9922
sfisk@earthjustice.org

/s/Nicholas Leonard

Nicholas Leonard (P79283)
Great Lakes Environmental Law Center
4444 Second Avenue
Detroit, MI 48201
313-782-3372
nicholas.leonard@glelc.org

Date: July 28, 2020

CERTIFICATE OF SERVICE

I hereby certify that on July 28, 2020, the foregoing Motion and Brief for Extension of Time and For Permission to File Enlarged Brief was filed electronically with the Clerk of the Court through the CMECF system, which will automatically send email notification and service of such filing to all counsel of record.

/s/Shannon Fisk

Shannon Fisk

Earthjustice

1617 John F. Kennedy Blvd., Suite 1130

Philadelphia, PA 19103

(O) 215-717-4522

(C) 215-327-9922

sfisk@earthjustice.org